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KING COUNTY  
SUPERIOR COURT CLERK  
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CASE #: 19-2-05401-8 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KAITLYN CARLSON, NOLAN MORGAN,  
DEREK ETTER, and JOHN AND JANE DOES  
1-500, individually and on behalf of all other  
similarly situated,  
Plaintiffs,

v.

PACIFIC NORTHWEST FONDUE, L.L.C., a  
Washington Limited Liability Company doing  
business as THE MELTING POT FONDUE  
RESTAURANT, MINISTRO MANAGEMENT  
GROUP, INC, a Washington Corporation,  
LANE SCHELZI, an individual, and JOHN  
DOES 1-3,  
Defendants.

No.

CLASS ACTION COMPLAINT FOR  
DAMAGES

Plaintiffs Kaitlyn Carlson, Nolan Morgan, and Derek Etter ("Plaintiffs"), each individually, and on behalf all others similarly situated (the "Class" as defined at 6.2 of this Complaint), by and through their attorneys, complain and allege against the above-captioned defendants (the "Defendants") as follows:

**I. INTRODUCTION**

1.1 Defendants engaged in the systematic abuse of their lowest paid workers in Seattle by paying them an hourly rate well below the minimum wage required by law.

1.2. Plaintiffs bring this action individually and on behalf of the Class against Defendants for Defendants' willful violation of state and municipal minimum wage laws.

CLASS ACTION COMPLAINT FOR DAMAGES - 1

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## II. THE PARTIES

2.1 The Plaintiff Kaitlyn Carlson is a resident of Issaquah, King County, Washington, and worked as an employee of Defendants in King County, Washington.

2.2 The Plaintiff Derek Etter is a resident of Renton, King County, Washington, and worked as an employee of Defendants in King County, Washington.

2.3 The Plaintiff Nolan Morgan is a resident of Seattle, King County, Washington, and worked as an employee of Defendants in King County, Washington.

2.4 The Defendant Pacific Northwest Fondue, L.L.C. d/b/a The Melting Pot Fondue Restaurant is a Washington limited liability company with its principal place of business in King County at 14 Mercer Street, WA 98109 ("The Seattle Melting Pot").

2.5 The Defendant Ministro Management Group, Inc. is a Washington corporation with its principal place of business in King County, Washington.

2.6 Upon information and belief, the entities Pacific Northwest Fondue, L.L.C. and Ministro Management Group, Inc. are each owned entirely by Lane Scelzi.

2.7 Upon information and belief, Pacific Northwest Fondue, L.L.C. is franchisee of the franchisor The Melting Pot Restaurants, Inc.

2.8 The franchisor, The Melting Pot Restaurants, Inc., franchises restaurant businesses across the United States under the brand name "The Melting Pot."

2.9 Upon information and belief, Lane Scelzi owns multiple "Melting Pot" franchise locations in Washington, including The Seattle Melting Pot.

2.10 Defendants John Does 1-3 are as yet unknown individuals or business entities who or which may hold an ownership interest in The Seattle Melting Pot.

## III. JURISDICTION AND VENUE

3.1 This Court has subject matter jurisdiction over this cause of action under RCW 2.08.010.

3.2 The wrongful acts alleged by Plaintiffs occurred in whole or in part in Seattle, King County, Washington.

3.3 The Court has jurisdiction over this action pursuant to RCW 49.60.030.

3.4 Venue is proper in this Court because the acts alleged herein took place in King County, Washington, and Defendants transact business in King County, Washington.

3.5 The claims asserted on behalf of Plaintiffs and the Class in this Complaint are brought under state and municipal law causes of action and are governed by Washington law and Seattle's municipal ordinances.

3.6 Federal jurisdiction is inappropriate under the Class Action Fairness Act, 28 U.S.C. § 1332(d)(4)(A), because: (a) all members of the putative Class are residents of Washington, or were residents of Washington, at all times relevant to their employment with Defendants. Additionally: (b) Defendants from which relief is sought are Washington entities located within the city of Seattle; (c) the alleged conduct of Defendants occurred within Seattle, Washington; (d) the injuries to the Plaintiffs occurred within Washington; and (e) during the three-year period preceding the filing of this action, no other class action has been filed asserting the same or similar factual allegations against Defendants on behalf of the same persons. Alternatively, federal jurisdiction is inappropriate under the Class Action Fairness Act, 28 U.S.C. § 1332 (d)(4)(B), because the members of the putative Class and Defendants all reside in the Washington.

#### IV. STATEMENT OF FACTS APPLICABLE TO ALL CLAIMS AND CAUSES OF ACTION

4.1 Plaintiffs incorporate by reference and re-allege paragraphs 1.1 – 3.6 as if fully set forth herein.

4.2 In 2014, Defendant Lane Scelzi, donated \$500 to Forward Seattle, a political campaign organized for the purpose of repealing the City of Seattle Minimum Wage Ordinance, Seattle Municipal Code § 14.19 et seq. (“MWO 14.19”).

1           4.3     On or about January 1, 2018, Defendants posted a sign at the entrance to The  
2 Seattle Melting Pot, stating “[a] 3% surcharge is added to all guest checks to help cover  
3 increasing cost to minimum wage and benefits for our dedicated team members.”

4           4.4     Defendants charged each customer this 3% surcharge; each customer restaurant  
5 check at The Seattle Melting Pot reflected the 3% surcharge.

6           4.5     At all times relevant to this Complaint, Defendants paid its hourly employees at  
7 The Seattle Melting Pot less than the minimum wage required by state and local law.

8           4.6     Defendants kept all proceeds of the 3% surcharge and used none of it towards  
9 paying its employees. Put another way, its employees did not receive hourly raises following the  
10 3% surcharge. Seattle Melting Pot employees continued to receive the same hourly wage  
11 following implementation of the 3% surcharge.

12          4.7     On or about March 12, 2018 Defendants hired Plaintiff Kaitlyn Carlson to work  
13 as a Hostess at The Melting Pot location in Bellevue.

14          4.8     On or about May 2018, Plaintiff Carlson was transferred to The Seattle Melting  
15 Pot to work as a Busser.

16          4.9     On or about July 2018, Plaintiff Carlson began working as a Server at The Seattle  
17 Melting Pot and continues in this role as of the date of this Complaint.

18          4.10    On or about March 2018, Defendants hired Plaintiff Nolan Morgan to work as a  
19 Server at The Melting Pot location in Bellevue.

20          4.11    On or about September 16, 2018, Plaintiff Morgan was transferred to The Seattle  
21 Melting Pot and continued in his role as a Server.

22          4.12    On or about November 2018, Defendants hired Plaintiff Derek Etter to work as a  
23 Server at The Melting Pot location in Seattle.

24          4.13    No Plaintiffs have received a medical benefits plan in connection with The  
25 Melting Pot at any time during their respective periods of employment.  
26

1           4.14 All Plaintiffs received an hourly wage of \$11.50 from their respective start dates  
2 through approximately November 2018.

3           4.15 Upon information and belief, Defendants have been provided posters, annually,  
4 by the Office of Labor Standards that explain applicable state and municipal wage law and are  
5 required by law to be posted in a conspicuous place.

6           4.16 Upon Information and belief, Defendants have never displayed such posters  
7 anywhere on the premises of any of The Melting Pot locations in Washington.

## 8                                   V.       SUBSTANTIVE ALLEGATIONS

9           5.1 Plaintiffs incorporate by reference and re-allege paragraphs 1.1 – 4.16 as if fully  
10 set forth herein.

11           5.2 As of January 1, 2015, MWO 14.19 has required large employers within the City  
12 of Seattle to pay a minimum wage to employees who work within the Seattle city limits, subject  
13 to annual adjustments to be effective on January 1 of each successive year.

14           5.3 The Office of Labor Standards publishes the multi-year minimum wage amounts  
15 for small and large businesses in Seattle. That chart is found online at  
16 <https://www.seattle.gov/laborstandards/ordinances/minimum-wage>. For 2018, Washington large  
17 employers must pay \$15.45 to each employee who does not receive and accept a medical  
18 benefits plan and \$15.00 to employees who accept an offered medical benefits plan.

19           5.4 The Melting Pot Restaurants, Inc., which is the umbrella corporation of The  
20 Melting Pot restaurant franchise, is a “Franchisor” as such term is defined by MWO 14.19 (the  
21 Melting Pot restaurant franchise shall hereinafter be referred to herein as the “Melting Pot  
22 Franchise”).

23           5.5 The Melting Pot Franchise collectively employs thousands of employs.

24           5.6 Defendants are a large employer as defined by MWO 14.19.

25           5.7 Defendants are a “Schedule 1 employer” as defined by MWO 14.19.030.  
26

1           5.8     The Melting Pot Franchise is an international chain of restaurants with over 100  
2 locations in the United States and several locations in other countries.

3           5.9     The Defendant Pacific Northwest Fondue, L.L.C. is a Franchisee of the Melting  
4 Pot.

5           5.10    The Defendant Pacific Northwest Fondue, L.L.C. is the “employer” of all  
6 Defendants as such term “employer” is defined by MWO 14.19.

7           5.11    Defendants are “employees” as such term is defined by MWO 14.19.

8           5.12    Defendants, as a large employer, have been, at all times relevant to this  
9 Complaint, required to pay the minimum wage required by MWO 14.19.

10          5.13    Defendants did not pay the minimum wage required by MWO 14.19, but instead  
11 willfully withheld wages from their hourly employees.

## 12                                   **VI.     CLASS ACTION ALLEGATIONS**

13          6.1     Plaintiffs incorporate by reference and re-allege paragraphs 1.1 – 5.13 as if fully  
14 set forth herein.

15          6.2     Class Definition. Under Civil Rule 23(a) and (b)(3), Plaintiffs bring this case as a  
16 class action against Defendants on behalf of the class defined as follows (the “Class”)

17               All persons who, between December 10, 2015 and the date of final disposition of this  
18 matter, were employed by and performed services for the Defendants within the city  
19 limits of Seattle, and received less than the hourly minimum wage required by Seattle  
Municipal Code § 14.19, et seq.

20               Excluded from the Class are the following individuals: independent contractors,  
21 exempt salaried employees, employees under the age of 16 years, employees who  
22 qualify for a Seattle Special Certificate, and the Defendants’ owners, partners,  
officers, and shareholders.

23          6.3     Numerosity. There are potentially hundreds of employees who performed services  
24 for Defendants within the time period relevant to this matter. Joinder of all such individuals is  
25 impracticable. Further, the disposition of all claims of the Class in a single action will provide  
26 substantial benefits and efficiency to all parties and to the Court.

1           6.4    Commonality. The relevant questions of law and fact are common to Plaintiffs  
2 and all members of the Class. This is straightforward matter of determining whether Defendants  
3 are a Class 1 employee within the Seattle city limits, and if so, calculating the correct minimum  
4 wage that Defendants should have paid to its minimum wage employees, calculating the wage  
5 actually paid, and then finally, calculating the difference between the two. Further simplifying  
6 the matter is that, upon information and belief, Defendants' minimum wage workers all received  
7 the same hourly rate of pay. In short, these questions are relatively simple to answer and are  
8 common to all members of the putative Class.

9           6.5    Typicality. Plaintiffs' claims are typical of the claims of the Class. Plaintiffs all  
10 performed services for Defendants as employees of Defendants. Plaintiffs all received less than  
11 the hourly wage to which they were entitled. Further, upon information and belief, each member  
12 of the putative Class received the same hourly wage for any given time period. Put another way:  
13 upon information and belief, Defendants paid all of its non-managerial hourly workers the same  
14 hourly wage.

15           6.6    Adequacy. Plaintiffs will fairly and adequately protect the interest of the Class.  
16 Plaintiffs have retained competent and capable attorneys with significant experience in complex  
17 litigation and class action employment law litigation. Plaintiffs and their counsel are committed  
18 to prosecuting this action vigorously on behalf of the Class and have the financial resources to do  
19 so. Neither Plaintiffs nor their counsel have interests that are contrary to or that conflict with  
20 those of the Class.

21           6.7    Predominance. Defendants have engaged in a common course of abuse of their  
22 lowest paid workers denying them the minimum wages to which they are entitled at law. The  
23 common issues arising from Defendants' unlawful conduct that affect Plaintiffs and members of  
24 the Class predominate over any individual issues. Adjudication of these common issues in a  
25 single action has important and desirable advantages of judicial economy.  
26

1           6.8    Superiority. Plaintiffs and Class members have suffered and will continue to  
2 suffer harm and damages as a result of Defendants' unlawful and wrongful conduct. Absent a  
3 class action, however, most Class members would find the cost of litigating their claims  
4 prohibitive, especially when that cost is balanced against their potential award. Class treatment is  
5 superior to multiple individual suits or piecemeal litigation because it conserves judicial  
6 resources, promotes consistency and efficiency of adjudication, provides a forum for claimants  
7 with smaller cases and those with few resources, and deters illegal activities. There will be no  
8 significant difficulty in the management of this case as a class action. The Class members and  
9 their pay rates are readily identifiable from Defendants' records.

## 10           **VII.    SPECIFIC STATEMENT OF CLAIMS AND CAUSES OF ACTION**

11           7.1    Plaintiffs incorporate by reference and re-allege paragraphs 1.1 – 6.8 as if fully set  
12 forth herein.

### 13                   **CAUSE OF ACTION APPLICABLE TO THE CLASS** 14                   **COUNT 1 – STATUTORY VIOLATIONS**

15           7.2    Defendants failed to pay its hourly workers the minimum wage required by law.

16           7.3    RCW 49.46.120 establishes Washington State's minimum wage and provides for  
17 enforcement of more favorable minimum wages than may be established by federal, state, or  
18 local law or ordinances.

19           7.4    Pursuant to RCW 49.46.090, "Any employer who pays any employee less than  
20 wages to which such employee is entitled under or by virtue of this chapter, shall be liable to  
21 such employee affected for the full amount of such wage rate, less any amount actually paid to  
22 such employee by the employer, and for costs and such reasonable attorney's fees as may be  
23 allowed by the court."

24           7.5    By the actions alleged within this Complaint, Defendants violated the provisions  
25 of RCW 49.46.90 by failing to pay wages to Plaintiffs and members of the Class. Specifically,  
26



1 Defendants violated Seattle Minimum Wage Ordinance 14.19 by failing to pay the minimum  
2 wage required by that ordinance.

3 7.6 Pursuant to RCW 49.52.050,

4 Any employer or officer, vice principal or agent of any employer, whether  
5 said employer be in private business or an elected public official, who. . .  
6 (2) Willfully and with intent to deprive the employee of any part of his or  
7 her wages, shall pay any employee a lower wage than the wage such  
8 employer is obligated to pay such employee by any statute, ordinance, or  
9 contract; or (3) shall willfully make or cause another to make any false  
entry in any employer's books or records purporting to show the payment  
of more wages to an employee than such employee received; shall be  
guilty of a misdemeanor.

10 7.7 Pursuant to 49.52.070,

11 Any employer and any officer, vice principal or agent of any employer  
12 who shall violate any of the provisions of RCW 49.52.050 (1) and (2)  
13 shall be liable in a civil action by the aggrieved employee or his or her  
14 assignee to judgment for twice the amount of the wages unlawfully  
15 rebated or withheld by way of exemplary damages, together with costs of  
suit and a reasonable sum for attorney's fees: PROVIDED, HOWEVER,  
that the benefits of this section shall not be available to any employee who  
have knowingly submitted to such violations.

16 7.8 As a result of the willful, unlawful acts of Defendants in violating the above-listed  
17 statutes, Plaintiffs and the Class have been deprived of compensation in amounts to be  
18 determined at trial and Plaintiffs and members of the Class are entitled to recovery of twice such  
19 damages, including interest thereon, as well as attorney's fees and costs under MWO 14.19 and  
20 RCW 49.52.070.

21 **CAUSE OF ACTION APPLICABLE TO THE CLASS**  
22 **COUNT 2 – INJUNCTIVE AND DECLARATORY RELIEF**

23 7.9 As described more fully above, Plaintiffs and the Class are entitled to a  
24 declaration of their right to be paid the prevailing minimum wage and an injunction prohibiting  
25 Defendants from further violations of state and local wage laws.

26 **INDIVIDUAL CAUSE OF ACTION**  
**COUNT 3 – UNJUST ENRICHMENT**

1 7.10 As described more fully above, Defendants have been unjustly enriched by  
2 wrongfully withholding wages from the Class.

3 **INDIVIDUAL CAUSE OF ACTION**  
4 **COUNT 4 – FAILURE TO PROVIDE EMPLOYEES WITH WRITTEN NOTICE OF**  
5 **RIGHTS UNDER SUBSECTION 14.19.045**

6 7.11 MWO 14.19.045 provides “[o]n an annual basis and by December 1 each year,  
7 the Agency shall create and distribute a poster that gives notice of the rights afforded by this  
8 Chapter 14.19.”

9 7.12 Under 14.19.045B:

10 “[e]mployers shall display the poster in a conspicuous and accessible place at any  
11 workplace or job site where any of their employees work. Employers shall display  
12 the poster in English and in the primary language of the employee(s) at the  
13 particular workplace. If display of the poster is not feasible, including situations  
14 when the employee works remotely or does not have a regular workplace or job  
15 site, employers may provide the poster on an individual basis in an employee's  
16 primary language in physical or electronic format that is reasonably conspicuous  
17 and accessible.”

18 7.13 Defendants failed to display the required posters in a conspicuous location at any  
19 of their Washington locations.

20 7.14 As a result of the unlawful acts of Defendants, Plaintiffs and members of the  
21 Class were not afforded notice of their right to the applicable rate of minimum wage and  
22 minimum compensation guaranteed under MWO 14.19, and the right to be protected from  
23 retaliation for exercising in good faith the rights protected by MWO 14.19.045.

24 **VIII. DAMAGES**

25 8.1 Plaintiffs incorporate by reference and re-allege paragraphs 1.1 – 7.14 as if fully  
26 set forth herein.

8.2 Defendant’s unlawful conduct with regard to its employment of Plaintiffs and the  
Class has caused the following damages:

8.3 Lost back pay, wages, and benefits in amounts to be established at trial;

8.4 Attorney fees and costs;

1           8.5     Out of pocket expenses, litigation costs, and attorney fees in amounts to be  
2 established at trial; and

3           8.6     Statutory and punitive damages.

4                               **IX.     REQUEST FOR RELIEF**

5           Plaintiffs, on their own and on behalf of the members of the Class requests that the court  
6 enter judgment against defendants as follows:

7           1.   An Order certifying that this action be maintained as a class action and appointing  
8 Plaintiffs as Representative of the Class and their counsel as Class counsel;

9           2.   For all actual, incidental, consequential, exemplary and/or statutory damages as  
10 provided for by law under the above causes of action that permit such relief including double  
11 damages under RCW 49.52.050 and .070, and MWO 14.19;

12          3.   Declare that Defendants' actions complained of herein violate RCW 49.46.090, RCW  
13 49.52.050, MWO 14.19.045, and MWO 14.19.03;

14          4.   For preliminary and permanent injunctive relief prohibiting, restraining, and  
15 enjoining Defendants from engaging in the conduct complained of herein;

16          5.   Awarding Plaintiffs civil remedies pursuant to MWO 14.19.080;

17          6.   Awarding Plaintiffs and the Class actual and reasonable attorney fees, litigation  
18 expenses, and costs incurred in this action under RCW 49.46.090, RCW 49.60.030, and/or RCW  
19 49.48.010 to 030;

20          7.   Awarding Plaintiffs Declaratory relief to the effect that Defendants have violated  
21 Plaintiffs' statutory rights;

22          8.   Awarding Plaintiffs prejudgment and post-judgment interest for lost wages and  
23 economic loss;

24          9.   Permit Plaintiffs and members of the Class leave to amend the complaint to conform  
25 to the evidence presented at trial; and  
26

1 10. Grant any additional or further relief which the court deems equitable, appropriate or  
2 just.

3 DATED this 10<sup>th</sup> day of December, 2018.

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